



## Opinion 425

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**Opinion Title:** 02/25/2002 PUBLISHED Pierce v. Beneficial Mortgage Co. of Utah (In re Pierce), 01P-2367, Judge Thurman, 282 B.R. 26.

**Body:** The debtors filed a complaint, arguing that the second mortgage holder's trust deed on the debtors' personal residence was completely unsecured and should be voided or "stripped" pursuant to 11 U.S.C. § 506(a) and (d) and that the claim filed by the creditor should be treated as an unsecured claim under the debtors' chapter 13 plan. The debtors argued that because the value of the collateral was only \$66,000.00 and the first mortgage holder's claim exceeded that value, any remaining claim holder must be entirely unsecured and, therefore, the lien on the property held by the creditor may be voided. The Court held that under § 506(a), a completely unsecured mortgage holder does not have a secured claim, and is therefore not protected by the antimodification statute under § 1322(b)(2) and its lien can be stripped. The Court determined that a party should first look to § 506(a) for a valuation of the collateral and if the collateral has no remaining value after giving credit for senior secured debt, the claim is unsecured. Once it is determined that a claim is not "secured only by a security interest in real property that is the debtor's principal residence," § 1322(b)(2), then the lien is void under § 506(d).

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**Judge:** [Judge William T. Thurman](#) [2]

**Date:** Monday, February 25, 2002

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